



Suzanne Henderson

NOTICE OF CONFIDENTIALITY RIGHTS: IF YOU ARE A NATURAL PERSON, YOU MAY REMOVE OR STRIKE ANY OF THE FOLLOWING INFORMATION FROM THIS INSTRUMENT BEFORE IT IS FILED FOR RECORD IN THE PUBLIC RECORDS: YOUR SOCIAL SECURITY NUMBER OR YOUR DRIVER'S LICENSE NUMBER.

NO SURFACE USE PAID UP OIL AND GAS LEASE

THIS LEASE AGREEMENT (this "Lease") is made as of the 24 day of October, 2008, between the **Mikhail and Polina Kuptsin**, whose address is **4414 Westdale Ct, Fort Worth, TX 76109**, as Lessor, and **XTO Energy Inc.**, whose address is **810 Houston Street, Fort Worth, Texas 76102**, as Lessee.

1. **Leased Premises.** In consideration of a cash bonus paid upon execution of this Lease, and the covenants herein contained, Lessor hereby grants, leases and lets exclusively to Lessee the land described on Exhibit "A" attached hereto (the "leased premises") in Tarrant County, Texas (including any interests therein which Lessor may hereafter acquire by reversion, prescription or otherwise), for the purpose of exploring for, developing, producing and marketing oil and gas. For purposes of this Lease, "oil and gas" means oil, gas and other liquid and gaseous hydrocarbons and their constituent elements produced through a well bore. "Oil" includes all condensate, distillate and other liquid and gaseous hydrocarbons produced through a well bore. "Gas" includes helium, carbon dioxide and other commercial gases, as well as hydrocarbon gases. Expressly excluded from this Lease are lignite, coal, sulfur and other like minerals. The leased premises shall include all strips and gores, streets, easements, highways and alleyways adjacent thereto. Lessor agrees to execute at Lessee's request any additional or supplemental instruments reasonably necessary for a more complete or accurate description of the leased premises. In the event Lessor owns any additional acreage than that for which bonus was originally paid, Lessee shall pay additional bonus at the rate per acre on which bonus was originally paid when this Lease was acquired. For the purpose of determining the amount of any shut-in royalties hereunder, the number of gross acres specified on Exhibit "A" shall be deemed correct, whether actually more or less.

2. **Term.** This Lease is a "paid up" lease requiring no rentals. Subject to the other provisions contained herein, this Lease shall be for a term of three (3) years from the date hereof (the "primary term"), and for as long thereafter as oil or gas or other substances covered hereby are produced in paying quantities from the leased premises or from lands pooled therewith, or this Lease is otherwise maintained in effect pursuant to the provisions hereof.

3. **Royalty.** Royalties on oil, gas and other substances produced and saved hereunder shall be paid by Lessee to Lessor as follows: (a) for oil and other liquid hydrocarbons separated at Lessee's separator facilities, the royalty shall be twenty five percent (25%) of such production, to be delivered at Lessee's option to Lessor at the wellhead or to Lessor's credit at the oil purchaser's transportation facilities, provided that Lessee shall have the continuing right to purchase such production at the wellhead market price then prevailing in the same field (or if there is no such price then prevailing in the same field, then in the nearest field in which there is such a prevailing price) for production of similar grade and gravity; and (b) for gas (including casinghead gas) and all other substances covered hereby, the royalty shall be twenty five percent (25%) of the proceeds realized by Lessee from the sale thereof, computed at the point of sale, less a proportionate part of ad valorem taxes and production, severance or other excise taxes, and less the permitted unaffiliated third party deductions authorized below; provided that Lessee shall have the continuing right to purchase such production at the prevailing wellhead market price paid for production of similar quality in the same field (or if there is no such price then prevailing in the same field, then in the nearest field in which there is such a prevailing price) pursuant to comparable purchase contracts entered into on the same or nearest preceding date as the date on which Lessee commences its purchases hereunder. If at the end of the primary term or any time thereafter one or more wells on the leased premises or lands pooled therewith are capable of producing oil or gas or other substances covered hereby in paying quantities, but such well or wells are either shut-in or production therefrom is not being sold by Lessee, such well or wells shall nevertheless be deemed to be producing in paying quantities for the purpose of maintaining this Lease. A well that has been drilled but not fraced shall be deemed capable of producing in paying quantities. If for a period of ninety (90) consecutive days such well or wells are shut-in or production therefrom is not being sold by Lessee, then Lessee shall pay shut-in royalty of seventy-five dollars (\$75.00) per acre then covered by this Lease on or before the end of said 90-day period and thereafter on or before each anniversary of the end of said 90-day period while the well or wells are shut-in or production therefrom is not being sold by Lessee; provided, however, that if this Lease is otherwise being maintained by operations, or if production is being sold by Lessee from another well or wells on the leased premises or lands pooled therewith, no shut-in royalty shall be due until the end of the 90-day period next following cessation of such operations or production. Notwithstanding anything to the contrary herein, it is expressly understood and agreed that after the expiration of the primary term, Lessee shall not have the right to continue this Lease in force by payment of shut-in royalty for more than a single period of up to two (2) consecutive years.

Royalties on oil, gas and other substances produced and saved hereunder which are processed in a processing plant in which Lessee, or an affiliate of Lessee, has a direct or indirect interest, shall be calculated based upon the higher of the proceeds received or the market value of the products so processed. Similarly, on oil, gas and other substances produced and saved hereunder which are sold to Lessee, or an affiliate of Lessee, royalties shall be paid based upon the higher of the market value of the products so sold and the proceeds received by Lessee for said products. Notwithstanding anything to the contrary herein, except for nonaffiliated third-party charges incurred or paid by Lessee to transport, gather, compress, stabilize, process or treat gas produced from the leased premises, or lands pooled therewith (including fuel charges), in no event shall any of Lessor's royalty bear any part of the costs of production or any post-production costs, including costs of lifting, gathering, dehydration, compression, separation, delivery, transportation, manufacture, processing, treating or marketing, or for construction, operation or depreciation of any plant or other facility or equipment for processing or treating oil or gas produced from the leased premises or lands pooled therewith. In no event shall Lessor receive a price greater than or less than Lessee in sales to nonaffiliates.

As used herein, "affiliate" means (i) a corporation, joint venture, partnership or other entity that owns more than ten percent (10%) of the outstanding voting interest of Lessee or in which Lessee owns more than ten percent (10%) of the

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the surface or subsurface of the leased premises; and those that may arise out of or be occasioned by Lessee's breach of any of the terms or provisions of this Lease or any other act or omission of Lessee, its directors, officers, employees, partners, agents, contractors, subcontractors, guests, invitees and their respective successors and assigns. Each assignee of this Lease, or of an interest herein, agrees to be liable for, exonerate, indemnify, defend and hold harmless the Lessor Parties in the same manner provided above in connection with the activities of Lessee, its officers, employees and agents as described above. EXCEPT AS OTHERWISE EXPRESSLY LIMITED HEREIN, ALL OF THE INDEMNITY OBLIGATIONS AND/OR LIABILITIES ASSUMED UNDER THE TERMS OF THIS LEASE SHALL BE WITHOUT LIMITS AND WITHOUT REGARD TO THE CAUSE OR CAUSES THEREOF (EXCLUDING PRE-EXISTING CONDITIONS), STRICT LIABILITY OR THE NEGLIGENCE OF ANY PARTY OR PARTIES (INCLUDING THE NEGLIGENCE OF THE INDEMNIFIED PARTY), WHETHER SUCH NEGLIGENCE BE SOLE, JOINT, CONCURRENT, ACTIVE OR PASSIVE.

14. Notices. All notices required or contemplated by this Lease shall be directed to the party being notified at the address identified above, unless notice of another address has been provided in writing. All such notices shall be made by registered or certified mail, return receipt requested, unless another means of delivery is expressly stated.

15. No Warranty of Title. Lessor makes no warranty of any kind with respect to title to the surface or mineral estate in the leased premises or any portion of or interest therein. All warranties that might arise by common law or by statute, including but not limited to Section 5.023 of the Texas Property Code (or its successor) are excluded. By acceptance of this Lease, Lessee acknowledges that it has been given full opportunity to investigate and has conducted sufficient investigation to satisfy itself as to the title to the leased premises. Lessee assumes all risk of title failures.

16. Top Leasing Permitted. There shall be no prohibition or limitation on top leasing.

17. Venue and Legal Fees. Venue for any dispute arising under this Lease shall lie in Tarrant County, Texas, where all obligations under this Lease are performable.

18. Off-Site Drillsite. As a result of land development in the vicinity of the lease premises, governmental rules or ordinances regarding well sites, and/or surface restrictions as may be set forth in this lease and/or other leases in the vicinity, surface locations for well sites in the vicinity may be limited and Lessee may encounter difficulty securing surface location(s) for drilling, reworking or other operations. Therefore, since drilling, reworking or other operations are either restricted or not allowed on the lease premises or other leases in the vicinity, it is agreed that any such operations conducted at a surface location off of the lease premises or off of lands with which the lease premises are pooled in accordance with this lease, provided that such operations are associated with a directional well for the purpose of drilling, reworking, producing or other operations under the lease premises or lands pooled therewith, shall for purposes of this lease be deemed operations conducted on the lease premises. Nothing contained in this paragraph is intended to modify any surface restrictions or pooling provisions or restrictions contained in this lease, except as expressly stated.

19. Option to Extend. Lessee is hereby given the option, to be exercised prior to the date on which this lease or any portion thereof would expire in accordance with its terms and provisions of extending this lease for a period of two (2) years as to all or any portion of the acreage then held hereunder which would expire unless so extended. The only action required by Lessee to exercise such option being the payment to Lessor (or for Lessor's credit at the depository bank named herein) and/or such parties entitled under any change of ownership according to Lessee's records, an additional consideration of the sum of Twenty Thousand Dollars (\$20,000.00) per net mineral acre owned by the party entitled to such payment at such time of extension, in the acreage so extended. If this lease is extended as to only a portion of the acreage then covered hereby, Lessee shall designate such portion by a recordable instrument.

20. Miscellaneous. This Lease is entered into in the State of Texas and shall be construed, interpreted and enforced in accordance with the laws of the State of Texas without reference to choice-of-law rules. Should any of the provisions herein be determined to be invalid by a court of competent jurisdiction, it is agreed that this shall not affect the enforceability of any other provision herein and that the parties shall attempt in good faith to renegotiate that provision so determined to be invalid to effectuate the purpose of and to conform to the law regarding such provision. The section titles appearing in this Lease are for convenience only and shall not by themselves determine the construction of this Lease. This Lease may be executed in one or more counterparts, each of which shall be deemed an original, but all of which shall constitute one and the same instrument. Singular and plural terms, as well as terms stated in the masculine, feminine or neuter gender, shall be read to include the other(s) as the context requires to effectuate the full purposes of this Lease.

IN WITNESS WHEREOF, this Lease is executed to be effective as of the date first written above, but upon execution shall be binding on each signatory and the signatory's heirs, devisees, executors, administrators, successors and assigns, whether or not this Lease has been executed by all parties hereinabove named as Lessor.



LESSOR/S:

Mikhail Kuptsin
Polina Kuptsin

STATE OF TEXAS

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COUNTY OF TARRANT

This instrument was acknowledged before me on the 24 day of October, 2008, by **Mikhail and Polina Kuptsin.**

Chad Raymond Dowell
Notary Public, State of Texas

Exhibit "A"

**Block 9, Lot 8
Willow Lake Addition
City of Fort Worth, Tarrant County, Texas
0.0650 acres, more or less**